

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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|-------------|--|-------------------|----------------|
| Applicant:  | Anindya Roy  | Group Art Unit:   | 2416           |
| Serial No.: | 10/762,022   | Examiner:         | Loo, Juvena W. |
| Filed:      | 01/21/2004   | Confirmation No.: | 3991           |
| For:        | CONGESTION CONTROL IN CONNECTION-ORIENTED<br>PACKET-SWITCHING NETWORKS |                   |                |

**RESPONSE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This paper is responsive to the Non-Final Office Action mailed on February 17, 2009. Applicant respectfully requests reconsideration of this application.

Applicant respectfully traverses the rejections under 35 U.S.C. §103 that are based upon the proposed combination of the *Shirai, et al.* and *Hu, et al.* references. The proposed modification to the *Shirai, et al.* reference cannot be made and there is no *prima facie* case of obviousness. As explained in MPEP 2143.01(V) and (VI), when a proposed modification to a reference would remove an intended feature of that reference, interfere with the reference's ability to achieve its intended result or change the principle of operation of the reference, the proposed modification cannot be made for purposes of attempting to manufacture a *prima facie* case of obviousness.

In this case, the *Shirai, et al.* reference keeps the standard transit line 3 in use even though some data is detoured to a backup transit line 4. See, for example, column 7, line 42; column 8,

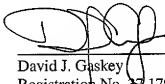
lines 23, 31-34, 45-52, 59-60; and column 10, lines 20-27. As explained at those portions of the *Shirai, et al.* reference and in column 12, lines 40-48, the intended operation of the *Shirai, et al.* arrangement is to relieve congestion on the standard transit line 3 quickly so that communications are guaranteed along that transit line. The *Shirai, et al.* reference accomplishes that by keeping the standard transit line in use even though some data may be transferred on the backup transit line.

If one were to modify the *Shirai, et al.* reference by making the proposed modification with the *Hu, et al.* reference as suggested by the Examiner, that would remove the intended feature of keeping the standard transit line 3 in use, would interfere with the ability in the *Shirai, et al.* reference to achieve the intended result of reducing congestion on the standard transit line to guarantee communications along that line and would change the principle of operation by no longer having the standard transit line in use according to the teachings of the *Shirai, et al.* reference. Therefore, the proposed modification to the *Shirai, et al.* reference cannot be made. There is no *prima facie* case of obviousness. All rejections under 35 U.S.C. §103 must be withdrawn.

This case is in condition for allowance.

Respectfully submitted,

**CARLSON, GASKEY & OLDS, P.C.**



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